

REMARKS

In the Restriction Requirement dated October 17, 2007, the Examiner indicated that the After Final Amendment filed July 31, 2007 would be entered and that the finality of the previous rejection would be withdrawn. Upon entry of the Amendment filed July 31, 2007, claims 1-5, 7-14, 16, 19-43 and 54 are pending. The Restriction Requirement dated October 17, 2007, restricted claims 1-5, 7-14, 16 and 19 as directed to a first invention (Group I) and claims 20-43 as directed to a second invention (Group II). The Amendment added new claim 54 that was not addressed in the Restriction Requirement. In a telephone discussion on October 25, the Examiner indicated that claim 54 should have been included in Group I.

In the Restriction Requirement (at pages 2-3) the Examiner states:

“Claims 1-5, 7-14, 16 and 19, drawn to method and system for searching data with searching query and providing the results of searching with multi-dimensional graph, which is query processing or searching, classified in class 707, subclass 3.”

“Claim 20-43, drawn to, for designing visual representation for each of the search results and plotting each of the visual representation on a multi-dimensional graph display, which is displaying processing, classified in class 715, subclass 526.”

For at least the reasons that follow, Applicant respectfully traverses the restriction requirement.

In support of this restriction requirement, the Examiner asserted that the inventions of Groups I and II are distinct because they are related as subcombinations usable together in a single combination. Applicant respectfully traverses the restriction requirement and submits that

the Examiner has failed to provide sufficient examples of the distinctness of the inventions of Groups I and II.

Under M.P.E.P. § 806.05(d), “two or more claimed subcombinations, disclosed as usable together in a single combination, and which can be shown to be separately usable, are usually distinct from each other.” However, as further set forth in M.P.E.P. § 806.05(d), to demonstrate that the subcombinations are separately usable, “[t]he examiner must show, by way of example, that one of the subcombinations has utility *other than in the disclosed combination*” (emphasis added). The burden is on the Examiner to provide such an example. See M.P.E.P. § 806.05(d). Thus, to demonstrate that subcombinations are separately usable, the Examiner must show that the subcombinations have utility in a combination that is different than that disclosed in Applicant's specification. Applicant respectfully submits that the Examiner has failed to satisfy this burden.

In the making the restriction requirement, the Examiner provided (page 3) the following examples that the subcombinations are allegedly separately usable:

“[I]nvention I can be used for searching data based on searching query and providing the results of searching with multi-dimensional graph, which is query processing or searching.”

“Invention II can be used for designing visual representation for each of the search results and plotting each of the visual representation on a multi-dimensional graph display, which is document presentation or document displaying processing.”

The above assertions made by the Examiner for each of the groups merely restate the utilities that these groups have in the combination disclosed in Applicant's specification. In setting forth the alleged utilities of these different groups, the Examiner has merely copied portions of the Applicant's claims, which have clear descriptive support in the combination disclosed in Applicant's specification. Therefore, the Examiner's allegation of separate utility merely restates the utility that the inventions of Groups I and II have in the combination disclosed in Applicant's specification, and not in a combination that is different than that disclosed in Applicant's specification. The Examiner, thus, has not provided an example that any of the subcombinations identified by Groups I or II have utility other than in the combination disclosed in Applicant's specification, as required for demonstrating one-way distinctness under M.P.E.P. § 806.05(d).

Since the Examiner has failed to demonstrate one-way distinctness, Applicant respectfully requests that the restriction requirement be withdrawn.

Additionally, M.P.E.P. § 803 states that there are two criteria for proper requirement for restriction between patentably distinct inventions: (1) the inventions must be independent or distinct as claimed; AND (2) there would be a serious burden on the Examiner to examine both groups of claims. Applicant respectfully submits that the Examiner's restriction requirement also does not satisfy the second requirement.

In making the restriction requirement, the Examiner (at page 3) states: "Because these inventions are distinct for reasons given above and the search required for Group I, is not required for Group II each other, restriction for examination purposes as indicated is proper."

Applicant respectfully disagrees.

Contrary to the Examiner's allegation, all the Group I independent claims (1, 19 and 54) include the feature of presenting results using a multi-dimensional graph, which would require a search in the Group II classification (class 715, subclass 526). Applicant therefore submits that there is no serious burden on the Examiner if the restriction is not required. Applicant respectfully submits that all claims of the present invention appear to be part of an overlapping search area, and thus their examination would not appear to constitute a "serious burden."

For at least these reasons, Applicant submits that restriction is improper and should be withdrawn.

In the event that the restriction requirement is maintained, Applicants hereby elect Group I, including claims 1-5, 7-14, 16, 19 and 54, with traverse.

To the extent necessary, a petition for an extension of time under 37 CFR § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1070 and please credit any excess fees to such deposit account.

Respectfully submitted,

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